

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 30, 1987

ALL COUNTY LETTER NO. 87-17

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: GRIMESY v. McMAHON RETROACTIVE COURT ORDER

The Grimesy v. McMahon lawsuit challenged the State Department of Social Services' (SDSS) authority to deem the income of Senior Parents to 18-year-old minor parents living at home and not attending school. On June 25, 1986 the United States District Court for the Northern District of California issued an injunction prohibiting SDSS from further implementation of MPP 44-133.7 (Senior Parent Deeming) and from recovering overpayments due to failure to consider Senior Parent income, for members of the class. The court also ordered SDSS to confer with plaintiffs' attorneys for the purpose of developing procedures to provide retroactive benefits to class members. On December 22, 1986, the final order was signed and the provisions of that settlement are set forth in the attached court order.

In order to implement the attached court order, the following counties are required to participate in the notification process of potential class members. Those counties are:

Alameda, Amador, Calaveras, Contra Costa, Fresno, Kern, Lassen, Los Angeles, Marin, Mendocino, Monterey, Napa, Orange, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Ventura, and Yolo.

The aforementioned counties shall identify all applications for AFDC which were denied due to either Section 44-133.7, or to excess income during the retroactive period of January 18, 1985 through June 23, 1986. Counties shall mail an informing/claiming notice on April 1, 1987 to the above-referenced applicants.

In order to provide adequate lead time for the rather involved April 1, 1987 mailing, a reproducible copy of the County Informing/Claiming Notice in English and Spanish is attached. All counties are instructed to print an adequate supply of the attached informing/claiming notice to ensure that an individual form is mailed to each recipient having been denied AFDC as outlined above. Additionally, counties shall print an ample supply of informing/claiming notices to be available for distribution in each county welfare office throughout the claim period.

In addition to the statewide and specific county mailing of informing/claiming notices, CWDs will be required to display posters (in English and Spanish) in each of their welfare offices and Food Stamp outlets. To facilitate the printing of the aforementioned posters, counties are instructed to contact Michael O'Brien by February 6, 1987 and provide the exact number of locations in which the Grimesy v. McMahon posters will be displayed. It is expected that posters will be distributed to CWDs on or about March 1, 1987.

If you have any questions or need any additional information concerning this All-County Letter, please contact Michael O'Brien at (916) 324-2013.



ROBERT A. HOREL
Deputy Director

Attachments

cc: CWDA

FILED

Dec 22 1 52 PM '86

WILLIAM L. W. LITAKER
U.S. DISTRICT COURT
NO. DIST. OF CALIF.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VICTORIA GRIMESY, et al.,
Plaintiffs,
v.

LINDA McMAHON, et al.,
Defendants,
v.

OTIS R. BOWEN, et al.,
Third-Party Defendants.

No. C 86 0947 SW

ORDER RE: RETROACTIVE
BENEFITS

On June 25, 1986, this Court granted plaintiffs' and third party plaintiffs' motions for partial summary judgment and issued a permanent injunction which provided plaintiff class members with prospective relief. At that time, the court also ordered the parties to confer concerning provision of retroactive benefits to plaintiff class members. Pursuant to that order the plaintiffs and the State Department of Social Services ("DSS") have conferred and have stipulated to the following order to compensate all class members whose AFDC benefits were reduced,

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1 terminated or denied at any time from January 18, 1985 through
2 June 25, 1986 as a result of the application of DSS regulation
3 EAS Section 44-133.7 and 45 C.F.R. Section 233.20(a)(3)(xviii).
4 The United States Department of Health and Human Services ("HHS")
5 objected to the proposed order in certain respects. The Court
6 has considered the objections of HHS and has concluded that the
7 order for retroactive relief as proposed by plaintiffs and DSS
8 is fair, reasonable and consistent with the requirements of the
9 Social Security Act. Accordingly,

10 IT IS HEREBY ORDERED, as follows:

11 I. IDENTIFICATION OF CLASS MEMBERS

12 In order to identify plaintiff class members whose
13 benefits have been reduced, terminated or denied, DSS shall:

14 (A) Compile a list of potential class members by
15 obtaining from the Department of Health Services the names and
16 most recent addresses of all recipients of AFDC or AFDC-linked
17 Medi-Cal who were 18 years of age at any time from January 1,
18 1985 through August 31, 1986. These potential class members
19 will receive the notice and claim form described in section II
20 below.

21 (B) Identify those counties which have the ability to
22 easily compile lists of the names and addresses of AFDC applicants
23 who were denied benefits due to excess senior parent income
24 during the period from January 18, 1985 to June 23, 1986 and
25 require those counties to prepare such lists. The counties
26 required to prepare such lists shall statistically represent at
27 least ninety percent (90%) of the statewide AFDC recipient

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1 population. DSS shall inform plaintiff's counsel no later than
2 ten (10) days after the date of this order which counties have
3 the ability to prepare such lists and the percentage of the AFDC
4 recipient population represented by such counties.

5 (C) Develop 17" and 22" posters in English and Spanish
6 to notify class members of their right to benefits. Posters
7 shall be submitted to plaintiffs' attorneys for review of layout.
8 These posters shall be placed in prominent locations in all
9 county welfare departments and food stamp outlets and DSS shall
10 request that such posters be displayed in EDD offices and
11 Social Security offices throughout the State of California
12 during the claim period specified in Paragraph III. Additionally,
13 DSS shall send a copy of the poster in both English and Spanish
14 to all Legal Services offices throughout the State of California
15 in accordance with a list furnished by plaintiffs' counsel.
16 All CWDs shall maintain copies of the Grimesy Notice and Claim
17 forms so that persons who learn of the lawsuit through posters
18 or other means may obtain and file claim forms.

19 II. NOTICES AND CLAIM FORMS

20 (A) Within four weeks of the receipt of this order,
21 DSS shall develop a general written Notice and Claim form and a
22 Supplemental Claim form and submit these documents to plaintiffs'
23 attorneys for review.

24 (B) Within two weeks of receiving the draft claim
25 forms, plaintiffs' attorneys will submit to DSS any comments
26 on the proposed language, content and format of the forms.
27 Within two weeks after receipt of these comments, DSS and

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1 plaintiffs' attorneys shall meet and confer, attempting to
2 resolve any differences regarding the language, content, and
3 format of said forms.

4 (C) In the event the parties cannot reach agreement,
5 DSS may use its proposed forms unless within five (5) working
6 days following the meeting, plaintiffs file a motion with the
7 Court challenging the proposed forms.

8 III. CLAIM PROCESSING

9 (A) On or before April 1, 1987, DSS or its agents
10 shall mail a notice and claim form to all potential class members
11 identified pursuant to Section I above. The claims period shall
12 run until June 30, 1987. Claims with a postmark after June 30,
13 1987 shall be denied as untimely. All claims shall be processed
14 within 90 days of the close of the claim period.

15 (B) When a claim has been received, the County Welfare
16 Department ("CDW") shall attempt to locate a case record for
17 the claimant, including a Medi-Cal case record.

18 (1) Where the case record contains information
19 sufficient to determine retroactive benefits, the
20 CWD shall calculate the retroactive benefits and shall
21 issue a payment, including interest, to the claimant.

22 (2) Where the case record does not exist or
23 does not contain information sufficient to determine
24 retroactive benefits or where the claim form received
25 by the CWD is incomplete or inconsistent with
26 information in the case record, the CWD shall send
27 a supplemental claim form to the claimant.

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1 Claims shall be denied when a supplemental claim
2 form is not postmarked within 60 days of mailing
3 to claimant. When the claimant submits the
4 additional information needed to process the claim,
5 the CWD shall calculate the retroactive benefits and
6 issue a payment, including interest, to the claimant.

7 (a) Claimants may be requested to supply
8 documentation of information provided in the
9 supplemental claim form where such documentation
10 is actually in the claimant's possession.

11 (b) Where claimants do not have
12 documentation in their possession they may be
13 asked to sign a release of information enabling
14 the county to obtain documentation on their
15 behalf. Signature of the release and the
16 claimant's sworn statement that the information
17 provided is correct, will be sufficient to
18 process a claim for retroactive benefits.

19 (3) Interest shall be calculated on a simple
20 ten (10) percent per annum basis.

21 (C) DSS shall adopt regulations with detailed
22 instructions for implementing this Order. The proposed regulations
23 shall be submitted to plaintiff's counsel for review and comment
24 at least twenty (20) days prior to the date DSS plans to adopt
25 the regulations. The regulations shall be adopted on an

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1 emergency basis if necessary to promptly implement the terms
2 of this order.

3 (D) For purposes of calculating retroactive benefits,
4 the following guidelines apply:

5 (1) The value of need items contributed by
6 the parent of the 18-year old parent during the
7 period from January 18, 1985 through June 25, 1986
8 shall not be considered as income in-kind.

9 (2) If the minor parent received cash from
10 the senior parent with instructions to use the cash
11 to make a purchase for the entire family, including
12 the senior parent unit, the cash shall not be
13 considered income to the minor parent and child(ren),
14 regardless of the nature of the expenditures.

15 (3) When any person (including the senior
16 parent) gave the minor parent cash which was to be
17 used for the minor parent or child(ren) and the cash
18 was given for a restricted purpose, the cash was not
19 available to otherwise meet current needs and,
20 therefore, shall not be considered income to the
21 minor parent or child(ren).

22 (4) Cash which was voluntarily and regularly
23 given to the minor parent but was not restricted
24 as to use is considered income to the minor parent
25 to the extent it exceeds the \$60 per quarter
26 exempted by EAS Section 44-101.41.

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1 (E) DSS shall develop proposed language for Notices
2 of Action to be sent to claimants to explain any actions taken
3 on a claim. The proposed language shall be submitted to
4 plaintiffs' counsel for review and comment.

5 (F) Any payments received by a class member pursuant
6 to this Order shall not be considered income in the month
7 received or resources in the month received or the following
8 month for purposes of eligibility for and calculation of benefits
9 under the AFDC program. Recipients shall be informed of this
10 in the Notice of Action which accompanies any benefit check they
11 receive. ~~Payments due to class members under this agreement~~
12 ~~shall not be offset against any outstanding overpayments of~~ *du*
13 ~~class members.~~

14 IV. STAY PENDING APPEAL

15 Plaintiffs and DSS agree that payment of retroactive
16 benefits to class members shall be stayed until the decision in
17 this case is final and the appeal resolved. However, the CWDs
18 will process all claims and send Notices of Action to all
19 claimants informing them of the resolution of their claim.
20 Where a claim is denied, claimants will have an immediate right
21 to request a fair hearing. Where a claim is granted in full or
22 in part, claimants will receive provisional Notices of Action
23 and their right to request a fair hearing will not attach
24 until they receive the Notices of Action and payment at the
25 conclusion of the lawsuit. Class members whose claims are
26 granted in whole or in part will be advised to notify a specific
27 CWD liaison in the event they relocate. Change of address forms

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1 will be provided for this purpose.

2 V. MONITORING

3 Within 120 days of the close of the claim period, DSS
4 shall provide to plaintiffs' counsel the following statistics
5 broken down by county:

- 6 (1) The number of claims paid;
7 (2) The number of Supplemental Claim Forms sent out;
8 (3) The number of claims received;
9 (4) The total amount of money paid to reimburse
10 class members;
11 (5) The number of claims paid based solely on
12 information in the case file;
13 (6) The number of claims paid based on information
14 provided by supplemental forms.

15 VI. FEDERAL FINANCIAL PARTICIPATION

16 The United States Department of Health Services ("HHS")
17 shall not impose any sanction, fiscal or otherwise, against the
18 State by virtue of the State's compliance with this order, nor
19 shall HHS refuse to provide federal financial participation to
20 the State at the appropriate rates for the administrative and
21 program costs incurred by the State in compliance with this order.

22 VII. ATTORNEYS FEES

23 This Court shall retain jurisdiction over the issue of
24 plaintiffs' entitlement to an award of attorneys fees and costs
25 in this case.

26 DATED: DEC. 22, 1986

27 
JUDGE OF THE FEDERAL DISTRICT COURT

ORDER RE:
RETROACTIVE BENEFITS

WELFARE MAY OWE YOU MONEY**GRIMESY V. McMAHON**

You must get this claim form to us by June 30, 1987.
If you are late, you will be denied. You may be able to get back payments if the answer to all five of these questions is "YES".

	YES	NO
1. Were you born between January 1, 1966 and June 30, 1968?	<input type="checkbox"/>	<input type="checkbox"/>
2. Were you living with your parent(s) or guardian at any time between January 18, 1985 and June 23, 1986?	<input type="checkbox"/>	<input type="checkbox"/>
3. Did you have a child or were you pregnant while you lived with your parent(s) or guardian at any time between January 18, 1985 and June 23, 1986?	<input type="checkbox"/>	<input type="checkbox"/>
4. Did you stop going to school, or were you out of school while you lived with your parent(s) or guardian at any time between January 18, 1985 and June 23, 1986?	<input type="checkbox"/>	<input type="checkbox"/>
5. Were you denied cash aid or was your cash aid stopped or reduced because the County counted the income of your parent(s) or guardian between January 18, 1985 and June 23, 1986?	<input type="checkbox"/>	<input type="checkbox"/>

Fill out this form only if your answers to all five questions above are "YES". Mail or bring this sheet to the address below:

NAME	
AFDC CASE NUMBER: (IF YOU KNOW IT)	
ADDRESS (NUMBER/STREET/CITY/ZIP CODE)	
TELEPHONE NUMBER ()	DATE OF BIRTH
SOCIAL SECURITY NUMBER	

1. Check the right box or boxes: <input type="checkbox"/> Cash aid was denied <input type="checkbox"/> Cash aid was stopped <input type="checkbox"/> Cash aid was changed
2. What months (between January 1985 and June 1986) did you live with your parent(s) or guardian?

a. During that time, did your parent(s) or guardian voluntarily and regularly give you money to spend as you wished?
<input type="checkbox"/> YES <input type="checkbox"/> NO
b. If "YES", when and how much?

3. List all the counties where you got cash aid or were denied cash aid.

I declare under penalty of perjury under the laws of the State of California that the facts in this report are true and correct to the best of my knowledge and the report is complete.

SIGNATURE:

DATE:

* You must furnish or cooperate in securing a verifiable Social Security Number for each person for whom you are applying. Furnishing of the Social Security Number is a condition of eligibility required by Section 402(a)(25) of the Social Security Act. The number will be used when coordinating information with other public agencies. If you cannot furnish a Social Security Number for all persons for whom you are applying, you must cooperate in securing a number(s) by applying directly to the Social Security Administration, providing proof of application, and providing the number(s) to the county welfare department when received.

ES POSIBLE QUE EL DEPARTAMENTO DE BIENESTAR LE DEBA DINERO**GRIMESY vs. McMAHON**

Debe entregarnos esta forma de reclamación antes del 30 de junio de 1987. Si la entrega tarde, se le negará. Es posible que usted pudiera recibir pagos retroactivos si la respuesta a cada una de estas cinco preguntas es "SÍ".

- | | SÍ | NO |
|---|--------------------------|--------------------------|
| 1. ¿Nació usted entre el 1 de enero de 1966, y el 30 de junio de 1968? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. ¿Vivía usted con sus padres o con su tutor legal en cualquier tiempo entre el 18 de enero de 1985, y el 23 de junio de 1986? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. ¿Tenía usted un hijo o estaba embarazada mientras vivía con sus padres o tutor legal en cualquier tiempo entre el 18 de enero de 1985, y el 23 de junio de 1986? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. ¿Dejó de asistir a la escuela o por alguna otra razón no iba a la escuela mientras vivía con sus padres o tutor legal en cualquier tiempo entre el 18 de enero de 1985 y el 23 de junio de 1986? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. ¿Se le negó la ayuda monetaria o fue parada o reducida ésta porque el condado contó los ingresos de sus padres o tutor legal entre el 18 de enero de 1985, y el 23 de junio de 1986? | <input type="checkbox"/> | <input type="checkbox"/> |

Llene esta forma solamente si la respuesta a las cinco preguntas es "SÍ". Envíe o traiga esta hoja a la siguiente dirección:

NOMBRE:	
NÚMERO DEL CASO DE AFDC: (SI LO SABE)	
DIRECCIÓN: (NÚMERO/CALLE/CIUDAD/ZONA POSTAL)	
NÚMERO DE TELÉFONO: ()	FECHA DE NACIMIENTO:
NÚMERO DE SEGURO SOCIAL*:	

* Usted debe proporcionar o cooperar para obtener un número de seguro social verificable para cada persona para la que esté solicitando beneficios. El proporcionar el número de seguro social es una condición de elegibilidad requerida por la sección 402(a)(25) del Acta del Seguro Social. Se usará el número para coordinar información con otras agencias públicas. Si no puede proporcionar un número de seguro social para todas las personas para las que está solicitando beneficios, tiene que cooperar para obtener los números solicitándolos directamente a la Administración del Seguro Social, proporcionando pruebas de la solicitud de los mismos, y proporcionando los números al departamento de bienestar del condado cuando los reciba.

1. Marque el casillero(s) apropiado:

- | | | |
|---|---|---|
| <input type="checkbox"/> La asistencia monetaria fue negada | <input type="checkbox"/> La asistencia monetaria fue parada | <input type="checkbox"/> La asistencia monetaria fue cambiada |
|---|---|---|

2. ¿En qué meses (entre enero de 1985 y junio de 1986) vivió usted con sus padres o tutor legal?

_____	_____
_____	_____
_____	_____

a. ¿Le dieron sus padres o tutor legal, durante ese tiempo, dinero para que lo gastara como usted quisiera?

- ☐ SÍ ☐ NO

b. Si fue así, ¿cuándo y cuánto?

3. Anote todos los condados donde recibió usted asistencia monetaria o se le negó ésta.

Declaro bajo pena de perjurio en conformidad con las leyes del Estado de California que los hechos en este reporte son verdaderos y correctos que éste está completo según mi mejor saber y entender.

FIRMA:	FECHA: